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Attorneys for Plaintiffs
and Third-Party Defendants
the Sports Shinko Companies

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAI'I

SPORTS SHINKO CO., LTD.,)	CV 04-00124 BMK
)	CV 04-00127 BMK
Plaintiff,)	
)	CONSOLIDATED CASES
vs.)	
QK HOTEL, LLC, et al.,)	THIRD-PARTY COUNTERCLAIMANT SPORTS SHINKO (WAIKIKI) CORPORATION'S CONCISE

Defendants,) **STATEMENT OF FACTS IN
and) SUPPORT OF MOTION FOR
FRANKLIN K. MUKAI, et al.,) SUMMARY JUDGMENT
Third-Party Plaintiffs,) RE: DEFENDANT FRANKLIN
vs.) MUKAI'S BREACH OF DUTY
SPORTS SHINKO (USA) CO.,) AS A (1) DIRECTOR
LTD., et al.,) AND (2) ATTORNEY;
Third-Party) DECLARATION OF
Defendants,) GLENN T. MELCHINGER;
and) EXHIBITS "1" - "26" &
SPORTS SHINKO (HAWAII) CO.,) "K-1"; CERTIFICATE OF
LTD., et al.,) SERVICE
Third-Party Defendants/)
Counterclaimants,)
vs.)
QK HOTEL, LLC, et al.,)
Third-Party Counterclaim)
Defendants.)
AND CONSOLIDATED CASES)

)**

**THIRD-PARTY COUNTERCLAIMANT SPORTS SHINKO (WAIKIKI)
CORPORATION'S CONCISE STATEMENT OF FACTS**

Pursuant to Rule 56.1 of the Rules of the United States District Court for the District of Hawai`i, Third Party Counterclaimant Sports Shinko (Waikiki) Corporation, ("SSW") respectfully submits its Concise Statement of Facts in support of its Motion for Partial Summary Judgment Regarding the Issue of Defendant Mukai's breach of his fiduciary duties to SSW, filed contemporaneously herewith.

FACTS	EVIDENTIARY SUPPORT
Since 1984, Defendant Franklin Mukai served as the attorney for subsidiaries of Sports Shinko Co., Ltd. ("SSJ") in Hawaii, as well as director, and in some instances as the assistant secretary, of the SS Hawaii Companies ¹ from 1989 until January 2, 2002.	Exs. "1" and "2"

¹ Sports Shinko (Hawaii) Co., Ltd., Sports Shinko (Mililani) Co., Ltd. ("SSM"), Sports Shinko (Kauai) Co., Ltd. ("SSK"), Sports Shinko (Pukalani) Co., Ltd. ("SSP"), and Sports Shinko (Waikiki) Corporation ("SSW") are collectively referred to as the "**SS Hawaii Companies**." The properties involved in this action are the Queen Kapiolani Hotel and the Ocean Resort Hotel ("Hotels"), which were owned by SSW.

FACTS	EVIDENTIARY SUPPORT
A new management company, Resort Management Services (Hawaii), Inc. ("RMS"), was formed in a manner giving the appearance of independence from the Kinoshitas.	Exs. "4", "6" & "8"
Mukai's firm drafted the RMS stock Option at Satoshi's request. Mukai was never clear about whom he was representing in drafting the Option.	Ex. "8", "9" at 206-207
Mukai cannot recall formulating any opinion as to whether the Option strategy should or should not have been pursued.	Ex. "9" at 205 -206
Mukai knew that Toshio wanted to form RMS to make it difficult "for RCC to attach the facilities in the Hawaii region."	Ex. "11"
Mukai cannot recall looking into whether any action or plan of action by the Kinoshitas raised fraudulent transfer issues.	Ex. "9" at 232
After RMS was set up, Mukai prepared management agreements for the SS Hawaii Companies (the "RMS Agreements").	Exs. "12" & "9" at 63
Mukai did no analysis of whether SS should enter into the RMS Agreements and he did not even give it "any thought."	Ex. "9" at 113 -114
Satoshi told Mukai that Toshio needed a "new company to be free from Japanese banks and the RCC."	Ex. "13" at "K-C"
Neither Mukai nor anyone from his firm told Toshio or Satoshi that it would not be a good idea to proceed with Toshio's Plans.	Ex. "9" at 285; Ex. "13" at "K-C"

FACTS	EVIDENTIARY SUPPORT
Mukai asked GT to investigate the tax consequences if the SS Hawaii Companies transferred all of their Hawai`i properties to RMS or other entities.	Ex. "14"
In early December 2001, Mukai introduced Wayne Tanigawa ("Tanigawa") of KG to the SS Hawaii Companies.	Ex. "9" at 24-25.
Mukai never asked whether KG had made an offer, despite having multiple meetings and telephone conferences with Satoshi and Tanigawa in December 2001.	Exs. "9" at 36, 20; "20"
Mukai did nothing to ensure that the sale to KG resulted in the highest reasonably attainable price for the properties.	Exs. "9" at 20, 35-36; Ex. "20" & "21"
Two of the SS golf courses alone were being marketed at a total listed price of \$71 million. Mukai failed to do any analysis of the purchase offers for the SS Hawaii Companies' properties.	Ex. "9" at 28, 31-32; Ex. "22"

DATED: Honolulu, Hawai`i, January 11, 2008.

/s Glenn T. Melchinger
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